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September 4, 2009

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**VIA OVERNIGHT DELIVERY**

Hon. Joseph F. Bianco, U.S.D.J.  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**Re: Cano v. Four M. Food Corp., et. al.  
08CV3005 (JFB) (AKT)**

Dear Honorable Sir:

Pursuant to my conversation with Chambers, I have sent this correspondence, and the enclosed settlement documents via overnight delivery.

As Your Honor may be aware, my office represents the Plaintiffs, in the above referenced matter. The parties jointly submit this correspondence, together with the attached settlement documents to: (1) advise the Court that the parties have agreed to settle this matter; and (2) seek judicial approval of the proposed settlement because it involves a release/waiver of claims brought pursuant to the Fair Labor Standards Act, 29 U.S.C. §201, *et. seq.* ("FLSA"). It should be noted that the settlement of this matter was achieved after the parties appeared at two (2) mediation sessions, moderated by the Hon. A. Kathleen Tomlinson, U.S.M.J.

The complaint in this matter alleged, among other things, violations of the FLSA. Defendants deny the allegations contained in the complaint. The parties have agreed to settle this matter, in accordance with attached ***confidential*** Settlement Agreement and Release. In connection with the ***confidential*** Settlement Agreement and Release, Defendants seek, *inter alia*, a release/waiver from the Plaintiffs, of their FLSA claims. However, settlement of a wage claim under the FLSA requires approval from the courts. See, Sampaio v. Boulder Creek Developers, Inc., 2007 WL 5209390 (E.D.N.Y. 2007); and 29 U.S.C. §216(c).

Therefore, instead of having the parties appear before Your Honor for an approval hearing, the parties respectfully request that this Court review the settlement terms, which are memorialized in the attached ***confidential*** Settlement Agreement, and approve them as a fair and reasonable settlement of the disputed issues.

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Thank you for your time and consideration. Please feel free to contact me if you wish to discuss this matter.

Respectfully yours,



TROY L. KESSLER (TK-4793)

enc.

cc: Nixon Peabody, LLP